IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

Crl.Rev.Pet.No. 690 of 1998

CRA.6/1997 of IST ADDL. SESSIONS COURT, THRISSUR
CC.328/1993 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHAVAKKAD

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REVN. PETITIONER:

MADHUSOODANAN PILLAI,
S/O. GOPALAKURUP, LATHARA VEETTIL
KIZHAKKUMMURI DESOM, PANNIYOOR AMSOM,
KARTHIKAPPILLY TALUK, ALAPPUZHA DIST.

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ

RESPONDENTS:

STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR MR. BREEZE M.S.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 02/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO,. 3586/1998 IN CRL.R.P.NO. 690/1998

DISMISSED.

2-3-2007 SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE

K.R. UDAYABHANU, J.

CRL.R.P.NO.690 of 1998

DATED THIS THE 2nd DAY OF March 2007

ORDER

The revision petitioner stands convicted for the offence under Section 323 I.P.C. and sentenced, as modified by the appellate court, to undergo simple imprisonment for one month. The prosecution case is that the revision petitioner/accused an employee of the K.S.R.T.C. wrongfully restrained PW2, the Senior Controlling Officer of the depot and manhandled him. It is in evidence that he was infuriated as the injured did not grant him leave, called him out of his cabin and manhandled him during office hours. PW2, the injured, PW3,an occurrence witness, who is an Inspector of K.S.R.T.C.depot and PW4, a driver of the K.S.R.T.C. have testified as to the fact that they have witnessed the incident. PW2, the de facto complainant was hospitalised and Ext.P2 is the wound certificate. PW5, the Civil Surgeon, Government Hospital has testified in proof of the same. It was contended by the revision petitioner that there is a counter case in which PW2 herein is the accused, and that the prosecution has failed to explain the injury sustained by the accused. But I find that in the cross examination of PW.7, the investigating officer, nothing about the injuries sustained by the accused herein has been put to him. The

only question in the cross examination is the suggestion that a counter case is pending.

2. On a consideration of the evidence adduced in the matter, I find no reason to deviate from the concurrent findings of the courts below with respect to the commission of offence under Section 323 by the accused. Counsel for the revision petitioner has pleaded for leniency pointing out that the accused/revision petitioner will be losing his employment and that he was under suspension for about 2 ½ years. In departmental proceedings, his increment for five years have been barred with cumulative effect and further that the incident has taken place in 1993 and so far he was facing the prosecution etc.

3. In the circumstances the sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- to the de facto complainant vide Section 357 (3) Cr.P.C.and in default to undergo simple imprisonment for one month. The revision petitioner shall appear before the Judicial Magistrate of First Class,Chavakkad on 25-4-2007 to receive sentence. The Crl.revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO.690 OF 1998

ORDER

2nd March -2007